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# STATE OF INDIANA

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DEPARTMENT OF LOCAL GOVERNMENT FINANCE



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## Non-Binding Review & Recommendations Frequently Asked Questions

*(updated 6.11.2010)*

1. To determine whether the proposed budget of a conservancy district, solid waste management district, fire protection district or other civil taxing unit is subject to non-binding or binding review by the county fiscal body, ask the following questions:
  - Is the board elected or appointed?
    - If elected, the budget is subject to the non-binding review process. (Most conservancy district boards are elected.)
    - If appointed, proceed to next question.
  - Is the unit a conservancy district, fire protection district, or solid waste district?
    - If yes, the budget is subject to binding review by county fiscal body.
    - If no, proceed to next question.
  - Does the unit have a percentage increase in the proposed budget for the taxing unit for the ensuing calendar year that is more than the AVGQ?
    - If yes, the budget is subject to binding review by county/city/town fiscal body.
    - If no, the budget is subject to non-binding review by the county fiscal body.

### Conservancy Districts

2. Is the budget of a conservancy district subject to binding (adoption) or non-binding review by the county fiscal body?

Binding/ Adoption:

- If the majority of the governing body of the district is appointed

Non-binding:

- If the majority of the district's governing board is elected

A conservancy district could have a majority of its governing body comprised of appointments. For example, a conservancy district could have a majority of appointments to the governing body who are serving initial terms (IC 14-33-5-11), filling vacancies (IC 14-33-5-12), or serving due to the district's failure to hold an election (IC 14-33-5-8). While it is extremely rare for a conservancy district to have an appointed board, if three of the members resigned and were replaced with appointments to serve out the remainder of their predecessors' terms, the governing body would be considered an appointed board.

3. **If a conservancy district fails to conduct an election to fill a vacancy on the board and the board of commissioners receives a petition to appoint a director(s), is that director(s) elected or appointed?**

A director appointed by the board of commissioners after receipt of a petition by an interested person is an appointed member.

### **Solid Waste Management Districts**

4. **Is the budget of a solid waste management district subject to a binding review if the proposed budget percentage increase is less than AVGQ?**

The budget of the solid waste management district is **always** subject to adoption by the county fiscal body and is subject to potential reduction or modification by the county fiscal body. Regardless of whether its proposed budget percentage increase is above or below the AVGQ, the budget of the solid waste management district should go to the county fiscal body for adoption.

*Background:*

*IC 6-1.1-17-20 was amended (House Enrolled Act (HEA) 1001(ss) – 2009) and now applies to an unelected board that:*

- (1) is specifically a solid waste management district; or*
- (2) has a percentage increase more than the AVGQ.*

5. **If a solid waste management district is a multi-county district, does each county fiscal body within the multi-county district have to adopt the district's budget?**

The proposed budget and levy of the solid waste management district shall be submitted to the county fiscal body in the county that has the most assessed valuation in the current year for final budget adoption.

### **Fire Protection Districts**

6. **Is the budget of a fire protection district subject to a binding review if the proposed budget percentage increase is less than AVGQ?**

Regardless of whether its proposed budget percentage increase is above or below the AVGQ, the budget of the fire protection district is subject to adoption by the county fiscal body and is subject to potential reduction or modification by the county fiscal body.

*Background:*

*IC 6-1.1-17-20 was amended (House Enrolled Act (HEA) 1001(ss) – 2009) and now applies to an unelected board that:*

- (1) is specifically a fire protection district; or*
- (2) has a percentage increase more than the AVGQ.*

**Civil Taxing Unit, Appointed Board with Budget over AVGQ (including Airport, Conservancy, Library, Sanitary, Solid Waste Management and Fire Protection Districts)**

**7. What is the deadline for the civil taxing unit to submit the budget to the county/city/town fiscal body for adoption?**

The civil taxing unit must submit its proposed budget to the county/city/town fiscal body at least thirty (30) days before the county/city/town fiscal body is scheduled to hold its budget approval hearings.

**The process is driven by the county/city/town fiscal body.** Therefore, it is important to confer with the appropriate fiscal body to determine a specific date by which the civil taxing unit must submit the proposed budget.

**8. Does the civil taxing unit or the county/city/town fiscal body advertise and hold the public hearing?**

The fiscal body that adopts the budget also holds the public hearing. Legal requirements of public notice (Budget Form 3 – Notice to Taxpayers) must be met. Either the unit or the adopting fiscal body is permitted to prepare and publish the notice which provides accurate information on meeting dates.

**9. What forms are required to be signed by the county/city/town fiscal body approving the adoption of the civil taxing unit's budget?**

The county/city/town fiscal body will sign the Budget Form 4, formally adopting the money appropriated on **Budget Form 4A** and the levy and rate on **Budget Form 4B** for the ensuing budget year.

If the civil taxing unit is a library, the county/city/town fiscal body will sign the **Library Budget Form 4** and **Library Budget Form 5**. This formally adopts the appropriations and rates as well as the levy on **Budget Form 4B** for the ensuing budget year.

**10. Will the civil taxing unit board take action adopting the unit budget?**

The final adoption of the civil taxing unit budget is by the county/city/town fiscal body and does not require the unit board to adopt its budget.

**11. If a county/city/town fiscal body adopts a civil taxing unit budget and lowers the tax rate, does the Auditor or TAB have to advertise the rate change?**

If the county/city/town fiscal body adopts the budget of the civil taxing unit and files it with the county auditor/TAB and no changes are made by the Auditor/TAB, the budget rate does not have to be advertised as part of the TAB chart. Only if changes are made by the Auditor/TAB does the budget rate have to be advertised as part of the TAB chart. (Note: Statute requires the budget to be filed with the county auditor within two (2) days after budget adoption.)

**Civil Taxing Unit, Appointed Board with Budget over AVGQ (other than Conservancy Districts, Solid Waste Management Districts and Fire Protection Districts)**

**12. Who is responsible for approving the budgets of these civil taxing units with appointed boards?**

If the percentage increase in the unit's proposed budget is more than the AVGQ, the unit must submit its budget to the county/city/town fiscal body for final adoption. If the percentage increase in its budget is less than the AVGQ, the budget is submitted to the county fiscal body for non-binding review and recommendation. I.C. 6-1.1-17-20

**13. If a civil taxing unit is not wholly contained within the city/town, was not established by the city/town, and its proposed budget percentage increase is more than the AVGQ, is the budget of the civil taxing unit submitted to the city/town fiscal body or the county fiscal body for binding review?**

If the proposed budget percentage increase is more than the AVGQ, the budget should be submitted at least thirty (30) days before the county fiscal body is scheduled to hold its budget approval hearing, for final adoption (binding review) of the budget, rate and levy.

**14. If a civil taxing unit is not wholly contained within the city/town, was not established by the city/town, and its proposed budget percentage increase is not more than the AVGQ, is the budget of the civil taxing unit submitted to the county fiscal body for binding review or for non-binding review?**

If the proposed budget percentage increase of the civil taxing unit is not more than the AVGQ, the budget should be submitted to the county fiscal body for non-binding review and recommendation at least forty-five (45) days before the civil taxing unit is required to adopt the budget.

**15. If the civil taxing unit is governed by an appointed board, the proposed budget percentage increase is more than the AVGQ, and the unit is not entirely contained within a city or town but was established by a city or town, which governing body adopts the civil taxing unit's budget?**

If the budget of the civil taxing unit is not entirely contained within a city or town, the budget is adopted by the city fiscal body or town fiscal body, whichever fiscal body established the unit.

**16. Who is responsible for informing the appointed board of the civil taxing unit that its budget must be submitted to the county/city/town fiscal body for final adoption if the percentage increase of the budget is more than the AVGQ?**

The appointed board is responsible for knowing that its budget must be submitted to the county/city/town fiscal body for final adoption.

**17. Who is responsible for advertising the budget, the public hearing and final adoption hearing if the budget of the civil tax unit with an appointed board is more than the AVGQ percentage increase and is being adopted by the county/city/town fiscal body?**

If the budget is more than the AVGQ, the fiscal body responsible for conducting the public hearing and adopting the budget would also be responsible for advertising the budget and hearings.

The fiscal body that adopts the budget also holds the public hearing. Legal requirements of public notice (Budget Form 3 – Notice to Taxpayers) must be met. Either the unit or the adopting fiscal body is permitted to prepare and publish the notice which provides accurate information on meeting dates.

**18. What is the deadline for submitting the budget to the county/city/town fiscal body for adoption?**

The governing body of the civil taxing unit shall submit its proposed budget and property tax levy to the county/city/town fiscal body at least thirty (30) days before the county/city/town fiscal body is scheduled to hold its budget approval hearing.

**19. Would airport authorities fall within the guidelines of a civil taxing unit with an appointed board?**

If the governing board of an airport authority is appointed and its proposed budget increase is more than the AVGQ, the airport authority budget is submitted to the county/city/town fiscal body for adoption of its budget at least thirty (30) days before the fiscal body is scheduled to adopt its budget.

If the proposed budget percentage increase is not more than the AVGQ, the airport authority budget is submitted to the county fiscal body for non-binding review and recommendation at least forty-five (45) days before the civil taxing unit is required to adopt the budget.

**20. Does the city transit system, which covers only the metropolitan area and has an appointed board and proposed budget percentage increase not more than the AVGQ, have to go before the city or county fiscal body for a binding or non-binding review?**

If the proposed budget percentage increase of the city transit system is not more than the AVGQ, the city transit system was established by the city council, and/or the assessed valuation of the unit is wholly within the city, the proposed budget, rate and levy is submitted to the county fiscal body for non-binding review and recommendation.

If the proposed budget percentage increase of the city transit system is more than the AVGQ, the proposed budget, rate and levy is submitted to the city fiscal body thirty (30) days before the city fiscal body holds its budget approval hearing, for final advertisement and final adoption of the budget, rate and levy.

**Civil Taxing Unit, Elected Board**

**21. What if the civil taxing unit adopts its budget prior to the county fiscal body non-binding recommendation?**

If a unit adopts its budget prior to the county fiscal body's non-binding review and recommendation, it risks the continuation of its most recent annual appropriation and tax levy for the ensuing budget year. The county fiscal body must give a non-binding recommendation prior to the unit's adoption hearing.